German Tax Monthly

Information on the latest tax developments in Germany

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Update: Promulgation of the Ninth Act Amending the Tax Advisory Act and Other Tax Regulations

On 2 July 2026, the Ninth Act Amending the Tax Advisory Act and Other Tax Regulations was promulgated in the Federal Law Gazette. The legislative process is thus complete.

In addition to amendments to the Tax Advisory Act, the Act also provides for an increase in the minimum local trade tax rate and amendments to the Real Estate Transfer Tax Act (to exclude possible double taxation in the event of a time lag between signing and closing, to extend the notification period for real estate acquisitions and to ensure that tax reliefs for partnerships continue to apply).

For further details see GTM June 2026.

Update: Draft Bill for the Annual Tax Act 2026

The Ministry of Finance (MoF) has published the government draft bill for the Annual Tax Act 2026. It is a “classic” annual tax act. The draft bill contains a total of 32 articles covering a wide range of individual measures in various areas of tax law that are not thematically related and are predominantly of a technical nature.

Compared to the ministerial draft bill, there have been only few significant changes, particularly those relevant to foreign companies.

For further details on the draft bill see GTM July 2026.

Coalition Committee Meeting: Tax Reform Plans

On 1 July 2026, the coalition committee has agreed on a “Program for Economic Recovery and Employment” comprising 34 measures. It includes several tax-related proposals – not only with regard to the income tax rate. The increase in the inheritance tax, which had been discussed beforehand, is not included.

The measures cover the following areas: pensions, taxes, the labor market, growth and equity, and reducing bureaucracy.

An overview of the most important tax measures that may also be relevant to companies:

- Increase in the upper limit for the tax-privileged **Sunday and public holiday allowance** to an hourly wage of up to 75 euros, whilst at the same time exempting the tax-free allowance from social security contributions where it falls within the scope of a collective agreement

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- **Mini-jobs**: Increase in the flat-rate tax rate from 2% to 5%
- Tax relief on **severance payments** if new employment is taken up promptly; the sooner new employment is taken up, the greater the tax benefit (incentive for a swifter change of job)
- Introduction of an alternative **allocation formula** for the trade tax base in the case of data centres; aim: to make data centre projects more attractive to local authorities
- **Tax simplification**: Ongoing discussions with the federal states
  - First step by the coalition
    - Introduction of an automatically pre-filled, digital tax return
    - Introduction of an obligation for tax offices to issue a tax number to companies within a maximum of four weeks
    - Unrestricted use and processing of the tax identification number by social security institutions (simplification and automation of processes, improved error prevention and combating of abuse)
  - Consolidation of further proposals into a Tax Simplification Act by autumn 2026 to
    - simplify the tax system
    - Improvement of the optional model
    - Acceleration
- **Risk-based supervision**: significant **reduction in reporting obligations**; Introduction of comprehensive application of the **risk-based approach** and **simplification of controls** by the federal administration (sampling rules, de minimis thresholds, flat-rate arrangements); in return, stricter penalties for infringements (commercial law, criminal tax law).

The programme contains measures on which the coalition leaders of the governing parties have agreed. Some of the individual measures (increase in the upper limit for the tax-privileged Sunday and public holiday allowance and increase in the flat-rate tax rate for mini-jobs as well as an alternative allocation formula for the trade tax base for data centres) have already been included in the draft bill for an Income Tax Reform Act 2027. It remains to be seen in what form the remaining measures will be introduced to the Bundestag and what amendments, if any, will be made during the parliamentary process.

Ministry of Finance and Ministry of Justice: Action Plan to Combat Tax and Financial Crime

The Ministry of Finance (MoF) and the Ministry of Justice (MoJ) have presented an action plan to combat tax and financial crime, comprising a total of 26 measures. The focus is on more effective and better-coordinated tax and investigative authorities, pooling the expertise and findings of the federal government and the federal states, analysing data, and increasing deterrence and the risk of detection. Plans include, amongst other things: abolishing immunity from prosecution for voluntary disclosure in its current form; introducing stricter regulations on tax evasion by companies; introducing a VAT reporting system; extending the retention periods for accounting documents to 15 years; storing tax-relevant data on mirror servers in Germany; and introducing a mandatory use of cash registers.

Summary of the key action points – a draft bill is not yet available:

- Stricter regulations on **tax evasion by companies**: imposing sanctions on companies as well, through amendments to the regulations on fines
- **Abolition** of immunity from prosecution for **voluntary disclosure** in its current form
- Increase in **penalties** for **particularly serious** cases of organised tax crime and serious tax offences
- Introduction of a **public register** of **companies** sanctioned for serious **tax offences**
- Continued examination of the grey area of **aggressive tax planning** to close legal loopholes
- **Establishment of a joint data analysis centre with the federal states** and **AI-supported** analysis of large data sets; introduction of a central data platform for tax data in collaboration with the federal states
- Introduction of a **VAT reporting system**: reporting of turnover on an individual basis and in a timely manner (real-time reporting obligations)
- Extension of **retention periods** for accounting documents to 15 years
- Storage of tax-relevant data on **mirror servers** in Germany
- Introduction of a **mandatory cash register requirement**
- **Relief measures**:
  - Expansion of **risk-based audits** by the Federal Tax Audit Office through an improved data basis to ease the burden on companies that comply with the rules.

- Tax simplifications through **standardisation** and **flat-rate schemes**.

Update: Act on the Automatic Exchange of Minimum Tax Reports

On 9 July, the Bundestag adopted the Act on the Multilateral Agreement between the competent authorities on the exchange of GloBE information.

As part of global minimum taxation (Pillar 2), groups of companies must submit a minimum tax report (GIR - GloBE Information Return). To ensure that the type and scope of the information in the minimum tax report is available to all authorities concerned in good time, the international community has agreed to establish an automatic exchange of information between the participating tax administrations through this international multilateral agreement. The aim of the Act is to implement the international exchange of GloBE information with third countries. This Act is intended to secure the necessary approval from the legislative bodies.

For further details see GTM May 2026.

Update: Ordinance Amending the Minimum Tax Reporting Ordinance

On 17 August 2026, the Ordinance Amending the Minimum Tax Reporting Ordinance was promulgated in the Federal Law Gazette.

Section 99 (3) of the Minimum Tax Act empowers the Federal Ministry of Finance (MoF), with the consent of the Bundesrat, to issue regulations governing the detailed implementation and exchange of information relating to the minimum tax report. The (amended) Ordinance is intended to inform corporate groups and the tax authorities which tax jurisdictions have implemented qualifying supplementary tax regulations.

For further details see GTM May 2026.

Update: General Administrative Regulation for Tax Audits

On 10 July 2026, the Bundesrat adopted the “General Administrative Regulation for Tax Audits” (Tax Audit Regulation). The Tax Audit Regulation to replaces the previous Tax Audit Regulation as of 15 March 2000.

The Act on the Transposition of DAC 7 and the Modernisation of the Tax Procedure Law of 20 December 2022 partially amended the statutory provisions on tax audits in the Tax Procedure Law. The aim of these changes was to speed up the tax audit. Tax Audit Regulation The new Tax Audit Regulation implements the reformed regulations on tax audits within tax administration and is therefore intended to contribute to more risk-based, efficient and timely tax field audits.

For further details see GTM May 2026.

Federal Tax Court (X R 27/22): Compatibility with EU Law of the Flat-Rate Assessment of Non-Deductible Business Expenses Amounting to 5 Per Cent of the Merger Profit

In its judgement of 20 May 2026, the Federal Tax Court referred the question to the European Court of Justice (ECJ) for a preliminary ruling as to whether the taxation of an acquisition gain in the context of a cross-border upward merger is compatible with the European Merger Directive. At the heart of the matter is the admissibility under EU law of the flat-rate assessment of non-deductible business expenses amounting to 5 per cent of the merger profit.

In the case in question, the claimant, a limited liability company resident in Germany, was the sole shareholder of five companies with registered offices in other Member States of the European Union. Four of these foreign companies were merged into the claimant by way of a cross-border merger, meaning that the mergers fell within the scope of the Merger Directive.

Under German Reorganization Tax Act, an upward merger gives rise to a notional sale of the shares in the transferring subsidiary corporation. At the level of the acquiring corporation, this gives rise to a merger gain or loss equal to the difference between the book value of the shares and the value at which the transferred assets are recognised in the tax balance sheet of the acquiring corporation. It is true that an acquisition gain or loss is disregarded. However, in the case of an upward merger, 5 per cent of the acquisition gain is treated as non-deductible business expenses.

The competent tax office therefore included 5 per cent of the acquisition gain as a flat-rate, non-deductible business expense in the claimant’s tax balance sheet profit and subjected this to corporation tax and trade tax. By contrast, Article 7(1) of the Merger Directive stipulates that capital gains arising for the acquiring company upon the extinguishment of its shareholding in the capital of the company to be merged are not subject to taxation.

The question therefore arises as to whether the German rule on ‘5 % non-deductibility’ is to be classified as impermissible taxation of these capital gains, or whether it is permissible under EU law as a mere restriction on the deduction of business expenses.

In the view of the Federal Tax Court, the classification under EU law is not clear-cut. Some tax literature affirms its compatibility with the Merger Directive on the grounds that the capital gain itself remains tax-exempt and only the notional business expenses over the holding period of the shareholding are partially non-deductible. According to the Federal Tax Court, the ratio between the Merger Directive and the Parent-Subsidiary Directive also tends to support the view that the flat-rate business expenses are not deductible. Under the Parent-Subsidiary Directive, the taxation of a lump sum amounting to a maximum of 5 per cent of the profits distributed by the subsidiary corporation is permitted. Other views in the tax literature counter this by arguing that the Merger Directive contains no explicit provision or similar catch-all clause regarding the non-deductibility of notional operating expenses.

In view of these doubts regarding interpretation, the Federal Tax Court has referred the question of the compatibility of the mentioned flat-rate assessment of non-deductible business expenses with the Merger Directive in cases of upward mergers of foreign corporations to the ECJ for a preliminary ruling. It remains to be seen how the ECJ will rule.

Ministry of Finance: Final Guidance on the Tax Authorities' Principles for the Concept of Permanent Establishments

Dated 18 June 2026, the Federal Ministry of Finance (MoF) published the final version of the guidance on the administrative principles for the definition and justification of a permanent establishment in domestic and international tax law to certain associations.

The structure of the headlines remains unchanged from the draft guidance published on 13 February 2026 (For further details on this see GTM April 2026):

Content of the MoF guidance:

1. General information (including the relationship between domestic tax law and treaty law, the definition of a permanent establishment under domestic law, the definition of a permanent establishment under treaty law, similarities and differences between the definition of a permanent establishment under domestic and treaty law)
2. Individual cases
   a. Activities in external premises or in third-party premises
   b. Service or management companies
   c. Market stalls
   d. Children's room
   e. Home office (exercising management functions in the home office, representative's permanent establishment, definition of permanent establishment under treaty law in the home office)
   f. Influencer
   g. Ships
   h. Provision of personnel or pure transfer of an operating facility

Changes between the draft and final guidance:

However, in terms of content, the final guidance has the following changes compared to its draft version:

- **Fixed place of business:** The defining element of a "fixed connection to the surface of the earth" consists of a geographical and a temporal factor. In its final guidance, the MoF emphasizes that the connection of the place of business to the surface of the earth must in any case be intended to last at least six months, even if the actual period of use turns out to be shorter.
- **Relationship between Sec. 12 of the German Fiscal Code and Art. 5 OECD-MC:** The existence of a permanent establishment now requires, under treaty law as well, not only a fixed connection to the surface of the earth and a certain duration, but also sufficient disposal power (authority to use) on the part of the taxpayer. Thus, disposal power is now introduced as a defining criterion within the scope of Art. 5 OECD-MC.
- **Anti-fragmentation clause:** The anti-fragmentation clause is intended to counteract artificial splits of activities and functions, through which (business) units are created in which exclusively preparatory or auxiliary activities are performed. The final MoF guidance adds that the anti-fragmentation clause applies only if the relevant double tax treaty contains a corresponding provision.
- **Activities in premises owned by others / in third-party premises:** The establishment of a permanent establishment requires, among other things, the taxpayer's power of disposal. In this context, the final MoF guidance now states that mere repeated activities of the taxpayer in premises owned by others or in third-party premises do not yet establish disposal power of the taxpayer over these premises.

- **Place of effective management:** The tax authorities note that the newly introduced provisions in paras. 44.1 to 44.21 of the OECD Commentary on Art. 5 OECD-MC are to be understood as clarifying and are authoritative and to be observed as of their application date. Equally relevant is the second key clarification in the final MoF guidance that the 50% threshold of home office activity explicitly applies, for treaty purposes, also to employees performing management functions. Even where management functions are exercised, the time spent working from home is therefore initially decisive. The tax authorities have not further specified the term "management function" in the final version of the MoF guidance.

Rules of application:

The provisions of the new MoF guidance are applied in all open cases. The MoF guidance dated 24 December 1999, is repealed insofar as it refers to the concept of a permanent establishment and its justification in domestic and international tax law.

Ministry of Finance: Negotiating Guidelines on Double Taxation Treaties – 2026 Version

The Federal Ministry of Finance (MoF) has published an updated version of the German negotiating guidelines for double taxation treaties with respect to taxes on income and on capital. The 2026 update takes into account, in particular, the changes to the 2017 OECD Model Tax Convention compared with the negotiating guidelines published in 2013; these changes are largely based on the findings of the G20/OECD project to combat profit erosion and profit shifting (Base Erosion and Profit Shifting, known as the 'BEPS Project') and which implemented additional safeguards against unfair tax competition and aggressive tax planning. Furthermore, the negotiating guidelines have been adapted to reflect changes in domestic tax law.

The negotiating guidelines are not a "rigid template". Rather, when negotiating treaties, it is always necessary to weigh up – in the light of bilateral economic relations – the competitive interests of the domestic business environment, the international activities of export-oriented German companies, and the safeguarding of Germany's rights of taxation. Due to differences in domestic law and the respective national treaty policy of the other contracting state, the form and content of double taxation treaty provisions will therefore vary depending on the negotiating situation. The negotiating guidelines serve as a starting point for the Federal Government in its negotiations with a foreign state.

The main changes to the negotiating guidelines relate to the following areas:

- **Preamble:** no non-taxation or reduced taxation through tax evasion or avoidance (including through treaty-shopping arrangements aimed at obtaining reliefs provided in this treaty for the indirect benefit of residents of third states)
- **Persons covered by the treaty**: new provisions on fiscally transparent entities
- **General Definitions**: Definitions of "collective investment vehicle" and "pension fund"
- **Resident**: Provision for cases where it cannot be determined in which state the place of effective management is situated, or where the place of effective management is situated in neither of the two states (mutual agreement procedure). In the absence of such mutual agreement, that person shall not be deemed to be resident in either contracting state for the purposes of claiming benefits under the treaty
- **Permanent Establishment (PE)**:
  - The activities listed in the **catalogue of exceptions** to the definition of a PE (absence of a PE) may only be of a preparatory or auxiliary character. This is in line with the German position on the OECD MLI
  - **Anti-fragmentation rule** for PEs in accordance with the OECD MLI (further business activities carried out by the same enterprise or closely related enterprises in the other contracting state). As part of the OECD MLI process, Germany had made a reservation in this regard
  - Provisions on the **artificial circumvention of PE status through commission agent models and similar strategies** in accordance with the OECD MLI. As part of the OECD MLI process, Germany had made a reservation in this regard
  - Inclusion of a definition of **closely related enterprises**
- **Dividends**: Introduction of a **minimum holding period** of 365 days, including the date of the payment of the dividend, for the reduction in withholding tax (unchanged: 5 per cent) in the case of intercompany dividends (unchanged: direct shareholding of at least 10 per cent) in accordance with the OECD MLI (anti-abuse rule on transactions involving the transfer of dividends). This is in line with Germany's position on the OECD MLI

- **Capital gains:**
  - **Shares in real estate companies**: **Extension** to include the disposal of comparable interests, such as interests in **a partnership or a trust**, and the right of the state in which the immovable property is situated to tax such disposals even if the relevant value threshold (more than 50 per cent) of the immovable property is reached at any time during a period of 365 days prior to the disposal, in accordance with the OECD MLI (anti-abuse rule).
  - **Exit tax on shares upon departure / change of residence**: Removal of the requirement for at least **five years'** residence in the state of departure and limitation of the value link between the two contracting states to the **fair market** value.
- **Income from employment**: Deletion of the definitions of "pension scheme" and "tax benefit"; Inclusion of provisions on **severance payments**
- **Pensions, annuities and similar payments**:
  - Removal of the requirement that contributions must have been eligible for tax benefit for "more than 15 years" from the conditions governing the **source state's** right to tax pensions
  - Deletion of the condition "because the person ceased to be a resident of that state" in the **counter-exception** for reclaimed tax benefit
- **Elimination of double taxation in the state of residence**:
  - **Credit method**: Additional prerequisite of "reduction by any **right to claim relief** that has arisen" in respect of the foreign tax to be credited
  - **Exception from the exemption method** for income or capital where the other contracting state applies the DTT to exempt such income or capital from tax or applies Article 10 (2) (withholding tax on dividends) to such income
  - **Switch-over**: Deletion of the provision concerning the placement to different treaty provisions
- **Mutual agreement procedure:** A **three-year (rather than two-year)** time limit for reaching an agreement through the mutual agreement procedure before arbitration proceedings can be initiated, in accordance with the OECD MLI; Options for **excluding** arbitration, e.g. where anti-abuse rules apply, in certain cases under the Foreign Transactions Tax Act or when switching from the credit method to the exemption method. Both are in line with Germany's position on the OECD MLI
- **Procedural rules for withholding tax at source:** Repeal of the provision relating to **investment funds**
- **Application of the treaty in specific cases:**
  - The DTT benefits shall not apply to **low-taxed, passive income from PEs in third jurisdictions** in accordance with the OECD MLI
  - Inclusion of the **principal purpose test** in accordance with the OECD MLI (prevention of treaty abuse). This is in line with Germany's position on the OECD MLI.

EU Infringement Procedures: Taxation of Dividends from Subsidiaries in other Member States

The European Commission has launched the first stage of infringement procedures against Germany regarding the legislation on the taxation of dividends from subsidiaries in other Member States.

The European Commission has decided to launch infringement procedures against Germany – and, in addition, against France and Italy. These countries have failed to bring their legislation on the taxation of dividends received from subsidiaries in other Member States in line with the Parent-Subsidiary Directive.

German, French and Italian tax legislation would lead to a fragmentation of common company taxation rules laid down in the Parent-Subsidiary Directive as they tax the dividends received by a parent company from subsidiaries resident in other member States multiple times beyond what is allowed in the Directive. This has a negative bearing on competitiveness and investment for mid-sized and larger companies operating across the single market.

The decisions are part of the Commission's enforcement efforts to remove barriers in the single market. The Commission is therefore sending a letter of formal notice to Germany, France and Italy, which now have two months to respond and address the shortcomings raised by the Commission. In the absence of a satisfactory response, the Commission may decide to issue a reasoned opinion.

Revision of Key EU Directives through "Tax Omnibus" and "DAC Recast"

On 24 June 2026, the European Commission published two important proposals for directives, the so-called "Tax Omnibus" and the so-called "DAC Recast". The "Tax Omnibus" directive is intended to revise a total of six EU tax directives, including the Anti Tax Avoidance Directive (ATAD), the Parent-Subsidiary Directive (PSD) and the Interest and Royal ties Directive (IRD). The main objectives of this initiative are to simplify the EU tax framework in the area of direct taxation, reduce administrative burdens, boost the EU's competitiveness and improve legal certainty in the internal market.

The "DAC Recast" is intended to recast the EU Directive on Ad ministrative Cooperation (DAC). The proposal aims to improve clarity by consolidating the various DAC texts (DAC1 to DAC9) into a single cohesive text and to streamline the application of certain rules in the DAC framework through a series of targeted amendments. These include DAC4 (Country-by-Country Re porting – CbCR), DAC6 (EU mandatory disclosure rules), DAC7 (EU reporting obligations for plat form operators) and DAC9 (global minimum tax / Pillar 2).

For further details see:

Summary of Tax Omnibus proposal

Summary of DAC Recast proposal

Both proposed directives will now be debated in the European Parliament. Subsequently, they must be adopted by a unanimous decision of the Council of the EU. If individual Member States are critical of the measures proposed by the European Commission, the deliberations could drag on for a longer period of time, and changes may still be made.

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